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## COUNTY GOVERNMENT IN MISSOURI

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In Missouri the county is not only the chief district for local government but, aside from a few counties, it comprehends practically all local administration except that which is carried on in incorporated cities and villages and in local school districts. The southern type of county government was introduced during the territorial period and social, economic, and political conditions have prevented any important modification of the system.

After the Civil War, when there was considerable immigration into Missouri from the north central states, the demand arose for a division of functions between the county and incorporated townships. In 1872 the legislature enacted an optional law for township organization similar to one existing in Illinois. The system encountered great opposition, partly due to the charge that it was more expensive but chiefly because of conservative attachment to inherited institutions. A new act providing a much less developed type of township government was passed in the next year and this in turn was repealed in 1877. In 1879 a new law was enacted and this has continued in effect, being amended from time to time.

Under the present law any county may adopt township organization with the approval of a majority of the voters voting upon that proposition and may discontinue the system in the same manner. In counties which have adopted township organization the county remains the more important unit. As the township takes over the functions of assessment and collection, there is no county assessor or collector. The township has also some functions of highway administration. In other respects, however, the organization and powers of the county are unchanged. The system of township organization has never received wide acceptance in Missouri. Only 33 out of the 114 counties of the state have ever adopted the system, and the 20 counties in which it now obtains represent the widest acceptance it has received at any one time.<sup>1</sup>

<sup>1</sup> Its adoption has been confined chiefly to the western tier of counties south of the Missouri River and to a group of counties in the north central part of the

The five districts into which upper Louisiana was divided under the Spanish rule continued to exist after the Louisiana Purchase and became the original counties in the territory of Missouri. Fifteen additional counties were organized during the territorial period, of which five were in the district later organized as the territory of Arkansas. The subdivision of counties continued after the admission of Missouri as a state until at the time of the adoption of the present Constitution in 1875, 114 counties had been organized. In 1876, the city of St. Louis was separated from the county of that name and given all the necessary functions of a county which could be exercised in a city.<sup>2</sup>

The government of the county is carried on by a county court and a number of special executive and administrative officials. The county court is merely an administrative board possessing practically no judicial functions, its name having been inherited from an earlier period in which the administrative functions of the county were exercised by a judicial body. During the territorial period many experiments were made regarding the county board.<sup>3</sup>

The first legislature which met after the admission of the state established a county court of three members as the general administrative authority of the county. As in the territorial period, the elective principle was not recognized, the judges being appointed by the governor for a term of four years.<sup>4</sup>

state. These counties were the latest to be settled and thus felt the influence of northern immigration.

<sup>2</sup> The counties vary in area from Worth with 270 square miles to Texas which contains 1,145 square miles. The average is about 600 square miles. In nearly four-fifths of the counties the area is between 400 and 700 square miles. The legislature cannot change the boundaries of counties without the consent of a majority of the voters of all the counties affected by the proposed change. The population varies from 5,504 in Carter to 283,522 in Jackson which includes Kansas City. The average population excluding Kansas City and the City of St. Louis is 20,683. In more than two-thirds of the counties, the population is between 14,000 and 31,000.

<sup>3</sup> The English justice of the peace system was the original form introduced. This was soon modified by the establishment of separate financial administration under a county board of commissioners and district assessors. A county auditor later took the place of the commissioners. The system proved too complex for the primitive conditions in the territory and in 1813 there was again a consolidation of judicial and administrative functions, first in the local county court and later in the circuit court which displaced the former. Under this system, each circuit judge had charge of the local financial administration in all of the counties in his circuit.

<sup>4</sup> In 1825 there was a temporary reaction in favor of the justice of the peace system, but the county court plan was re-instituted by the next legislature in 1827. Four years later the offices were made elective. This continued to be the general form of county court until 1877, except that in 1855 the term was changed to six years, one judge being elected every two years.

During the period between 1841 and 1877, the general law governing the county court was changed by a large number of special acts applying to a particular county or counties. Some of these acts affected the functions of the county court, the most important being those which established separate probate courts and conferred upon them the jurisdiction over probate matters which under the general law belonged to the county court. By 1866 separate probate courts had been established in 79 out of the 114 counties.

Equally significant were the special acts relating to the organization of the county court. These were due to special conditions existing in some of the counties, such as small population, large cities and desire for representation of the townships on the county board.

The lack of uniformity and the other evils of special legislation led to the adoption of a provision in the state Constitution of 1865 prohibiting the legislature from passing any special law "for any case for which provision can be made by a general law."<sup>5</sup> Special acts continued to be passed, however, as the legislature held that it could decide when provision could not be made by a general law. As a result the Constitution of 1875 not only prohibits all special laws "where a general law can be made applicable" but makes the applicability of a general law a judicial question to be "judicially determined without regard to any legislative assertions on the subject."<sup>6</sup> The legislature is also specifically prohibited from passing any special law "regulating the affairs of counties," "creating offices, or prescribing the powers and duties of officers in counties" or "legalizing the unauthorized or invalid acts of any officer or agent of . . . any county."<sup>7</sup> The constitution provides, moreover, that the county court in each county shall consist of not exceeding three members.<sup>8</sup>

Under the provisions of the constitution the existing organizations of the county court continued until the legislature could enact a general law. This was done in 1877. The organization of the county court under this law was a compromise containing features from many of the special acts. There are three members—a pre-

<sup>5</sup> Art. IV, sec. 27.

<sup>6</sup> Art. IV, sec. 53.

<sup>7</sup> *Ibid.*

<sup>8</sup> Art. VI, sec. 36.

siding judge and two associate judges. The county is divided into two districts as nearly equal in population as practicable without dividing municipal townships. One associate judge is elected by the voters of each district for a term of two years while the presiding judge is elected at large by the voters of the entire county for a term of four years.

The county court has functions in connection with financial administration, charitable relief, roads and bridges, licenses and various miscellaneous matters. It levies taxes on property for state and county purposes. The rate for state purposes is fixed by the legislature but the county court fixes the rate for county purposes subject to the maximum rates established by the constitution which vary according to the assessed valuation of property in the county.<sup>9</sup> The county court cannot incur any debt in excess of the annual income of the county without the consent of two-thirds of the voters, and the debt must in no case exceed five per cent of the assessed value of property in the county except for building a jail or court house or for roads and bridges.<sup>10</sup>

The county court appropriates the county revenue for county purposes and audits and allows all accounts against the county. It constructs a jail and court house, has control over all county buildings and property, and attends to the investments of the county and other local school funds.

The administration of poor relief is a function of the county court. A county almshouse is usually maintained and outdoor relief is also granted.

The county court has general charge of the highways of the county. It provides for the opening of roads and constructs bridges over streams. It divides the county into road districts and appoints a road overseer in each district. The court appoints a county highway engineer to supervise the highway administration. The voters

<sup>9</sup> During the first period of railroad construction in Missouri, between 1850 and 1870, public money and credit were freely granted by the state, counties, and other local subdivisions. In some cases fraud and in others gross negligence led to the incurring of the debt without securing the railroad. As a result there were incorporated into the Constitution of 1875 the most stringent provisions regarding taxation and loans. Art. X, sec. 11, 12. County taxes are also levied on licenses but these cannot be more than double the state taxes.

<sup>10</sup> The members of the county court with the county assessor and surveyor constitute the county board of equalization, which has power to determine all appeals from the assessor's valuation and to equalize assessments of real and personal property in the county.

of any county may dispense with this official in which case the elected county surveyor attends to his functions. Provision exists also for the organization of special road districts under the control of a board of three commissioners. Such districts may levy taxes and incur loans for road improvement.

County licenses are required for numerous occupations. In most cases the licenses are issued by the county collector upon payment of the fee or tax. In the case of ferries and dramshops, however, application must be made to the county court which has discretion in granting the license.

The county court has a large number of miscellaneous powers including the division of the county into townships, selection of jurors, incorporation of cities, approval of bonds of county officials, organization of levee and drainage districts, sanitary matters, destruction of diseased plants and wild animals, determination of election precincts, selection of judges and clerks, and other duties relating to elections.

While the county court is the general administrative authority of the county, it retains only a limited power of appointment and has only slight supervision or control of county officials. Where a highway engineer exists, he is appointed by the county court which also appoints a physician to serve on the county board of health, a teacher to serve on the county text-book commission, the superintendent of the poor house, road overseers and minor officials and employees.

The following county officials are elected by the voters of the county: assessor,<sup>11</sup> collector,<sup>11</sup> treasurer, clerk of the county court, clerk of the circuit court, recorder of deeds, sheriff, coroner, prosecuting attorney, probate judge, public administrator, school superintendent and surveyor.<sup>12</sup> Until a few years ago most county officials were chosen for a term of two years. This term was increased for different offices from time to time until to-day all of the above officials hold for a term of four years except the prosecuting attorney who is chosen for two years. Certain of these officials cannot be elected to succeed themselves and in practice few county officials hold for more than two terms.

<sup>11</sup> In counties which have adopted township organization, there is no county assessor or collector.

<sup>12</sup> In Buchanan and Jasper counties there is a county auditor and in Jackson county a county marshal each elected for a term of four years.

The compensation of most county officials is fixed by the legislature but varies with the wealth or population of the county and the nature of the office. A few officers receive an annual salary or per diem but most officials are paid under the fee system or a combination of a small salary and fees. The law fixes the maximum amount of fees which can be retained and the surplus must be paid into the county treasury.<sup>13</sup> The legislature this year, by placing the office of prosecuting attorney in all the counties exclusively upon a salary basis, has eliminated one of the greatest evils of the fee system.

The following discussion of the more important fields of activity of county officials will indicate the chief problems which have arisen in county administration.

### *Taxation*

The administration of county taxation is intimately connected with that of the state and of its other local subdivisions. The general property tax obtains for all divisions of the government and the assessment of property for taxation is practically made by the county authorities. While city assessors exist, the assessment for city purposes can not exceed that fixed for the county.<sup>14</sup> The collection of taxes for all divisions of the government except cities is likewise made by a county authority,<sup>15</sup> and the revenue of the other divisions is largely dependent upon the efficiency of the county official.

The county assessor or, in counties under township organization, the township assessor, assesses real and personal property.<sup>16</sup> The property owner is required to hand in a list of all his property with its actual cash value. This is not binding upon the assessor who makes the assessment, but in practice the personal property list is rarely changed by the assessor, who is not in a position to ascertain the real facts. As regards the real property, it is a physical impossibility for the assessor to make an accurate annual assess-

<sup>13</sup> In the larger counties, such as Buchanan, Jackson and Jasper, most of the county officials receive a fixed salary and pay all fees into the county treasury.

<sup>14</sup> The city assessor is in most cases a superfluous officer, as he does no more than copy the county assessment.

<sup>15</sup> In counties under township organization, the assessor and collector are township officials.

<sup>16</sup> Railroad, bridge, telegraph and telephone property is assessed by the state board of equalization.

ment. As a matter of fact, the assessors make no attempt to carry out the statutory provisions. Custom within a county has established the rule that property shall be assessed at a certain proportion of its actual value and one assessor follows the practice of his predecessors. As the customary proportion is not the same in all counties, it results that inequality of assessments exists among the different counties of the state. Within the same county the rate of assessment is usually higher in urban than it is in rural districts, since the limitation on the rate of city taxes makes a higher assessment imperative. On the other hand the per cent of personal property assessed in rural districts is much higher than is the case in urban communities. Ignorance and political and other considerations lead in many cases to inequality within the same county as among different individuals and different classes of property.

The county board of equalization which may act upon its own motion or upon complaint from a taxpayer, does little to improve the situation, as it is affected by the same conditions which influence the acts of the assessor. Much the same is true of the state board of equalization which consists of the governor, secretary of state, state auditor, state treasurer, and attorney general. This board has authority to equalize assessments among the counties but not among different persons or property within a county. The officials who make up this board have neither the time, information nor powers to adequately correct the evils. Political considerations also affect the solution of the problems by this body.

The fundamental defect is to be found in the lack of supervision and control over the acts of the assessor. This official has usually had no experience to qualify him for the position. While he is honest, he is frequently ignorant of the provision of the law which requires assessment at actual cash value and is unable to overcome the traditional rate established by his predecessors. He requires the moral and legal support of efficient state supervision such as is secured from state tax commissions in some states. Some of the more enterprising assessors have formed a state association of county assessors which meets annually. Difficulty arises from the fact that the assessors who most need the benefit of such an organization do not attend. Such an organization should be recognized by law and attendance should be compulsory and at public expense. Improvement would probably result if the state



auditor had authority to send expert revenue agents to advise with assessors and county boards of equalization. Effective reform, however, cannot be secured without the establishment of a central authority with power of supervision and, where necessary, of final determination.

The county collector or, in counties under township organization, the township collector collects all state and local taxes except city taxes and pays them over to the proper treasurer. The fact that the compensation of the collector depends upon the amount of his collections usually serves as an adequate incentive to efficiency. It is found, however, that collectors vary in the percentage of their collections and in some cases counties and school districts suffer from inadequate collections. The statutes provide means for holding the collector responsible in cases of wrongful acts or negligence but judicial action is required in all cases. The efficiency of the official would be improved by subjecting him to the supervision and control of the state auditor. In most cases the office of city collector is an unnecessary expense and inconvenience to the taxpayer and the situation would be improved by having the county collector collect city taxes on property.

### *Expenditure and Accounting*

The administration of the county treasury has been much improved since the adoption of the county depositary law under which the money is deposited in banks offering the highest rate of interest. Before this law was adopted the election of a county treasurer was usually a contest among rival banks. Little has been done, however, to improve the system of auditing and accounting which is carried on under methods adopted in the earliest periods when the amounts involved were insignificant as compared with present conditions. Buchanan, the second largest county in the state, is the only county with a county auditor who is elected as other county officials.<sup>17</sup> He countersigns all county warrants issued by the county court and keeps the accounts of the county with all officials who handle any funds. In all other counties, these functions are performed by the clerk of the county court.

For a number of years unsuccessful attempts were made to

<sup>17</sup> The present legislature has made provision for a similar office in Jasper county.

introduce a uniform system of accounting for state institutions, counties and other local governments under the supervision of the state auditor or a separate state department. The legislature this year has finally made provision for such a system in the office of the state auditor. As regards counties, however, the bill was modified so that the system can be introduced only upon the request of the county court. The fact that the county court has charge of the investment of county and other local school funds has made the more imperative the establishment of some supervision of its financial operations.

While the legislature has not been disposed to favor any central administrative control over local finances, it has not hesitated to introduce legislative centralization in particular counties. For example, acts have been passed creating new offices and increasing official salaries in some counties. It has been possible to do this despite the prohibition upon special legislation by making the acts apply to counties of a certain population or to those containing a city with a certain number of inhabitants. These acts have been held constitutional even where only one county is affected. It is claimed that bills introduced in the legislature now in session will, if passed, increase the annual salaries of officials in Jackson county by more than \$75,000.

### *Charities and Corrections*

It has been pointed out that poor relief is a function of the county court, which for this purpose maintains a county almshouse and also grants a limited amount of outdoor relief. While the county board is authorized to maintain a hospital for the sick poor, this has been done in only one county. Nine counties still use the primitive system of sending the poor to board at a given rate with private families. Most counties in abandoning this system bought a farm and employed a superintendent to look after the poor and use them as far as possible on the farm. As a result, the almshouse in the majority of counties is a farmhouse, and the county court is apparently more interested in the successful management of the farm than the welfare of the inmates. While a number of counties have erected modern buildings, the physical conditions in most of the almshouses are very bad. While the county court may send poor patients to the state hospitals for the insane and pay

for their support out of county revenue, many counties still keep insane and feeble-minded persons in the county almshouses, which are wholly unprepared to give the proper care. Children are also kept for long periods in these institutions. Similar undesirable conditions exist in most of the county jails which are under the supervision of the sheriff, who is allowed fifty cents a day for boarding prisoners. The fee system and the temporary character of the administration have not only prevented the introduction of reformatory measures but have tended to produce very bad physical and moral conditions.

The judge of the circuit court may and upon the petition of fifteen citizens must appoint six persons as a board of visitors for the inspection of all public charitable and correctional institutions of the county. This board is authorized to make recommendations to the county court regarding improvements in such institutions. These boards have materially improved conditions but in the majority of the counties no boards have been appointed.

The State Board of Charities and Corrections has power to make investigations of and require reports from all charitable and correctional agencies and institutions, and may submit recommendations to the governor. It has not had any supervisory control over state or local institutions and its powers have been defined in such general terms that it has not been able to deal with specific problems. The appropriations made for its support have enabled it to do little more than maintain its office and publish its reports and recommendations. The first thorough inspection of county jails and almshouses, which was made in 1912, was secured through the cooperation and financial assistance of the State Nurses' Association.

The publication of the results of the investigation caused the present legislature to enlarge the functions of the state board by giving it supervision over county jails and almshouses, with power to make regulations for the care of inmates, and by requiring county courts to report regularly the nature of their contracts for the care of paupers and to submit plans for the improvement or construction of jails and almshouses to the board for its approval. Detailed reports regarding outdoor relief are also to be made annually to the board, which is given authority to decide controversies between counties regarding rights of settlement of paupers. The act creates

a children's bureau as a department of the board to supervise the treatment of all dependent and neglected children and makes it unlawful to keep children between two and eighteen in any county almshouse.<sup>18</sup> While the legislature has not made adequate financial provision for the work of the state board, the provisions of the above act will enable it to introduce noteworthy improvement in this field of county administration.

### *Public Schools*

The improvement which has been made in recent years in the administration of public education furnished a good model to be followed in the field of charities and corrections. Until a few years ago complete local autonomy for each small school district was the normal condition. The state appropriated annually one-third of all its general revenue to be distributed among the school districts in proportion to the number of persons of school age without regard to the character of the school, the extent of school attendance, or the necessities of the local community. There was a county commissioner of schools who had authority in granting teachers' certificates but neither he nor the state superintendent of education had any power of supervision and control over the schools. A local option law existed, under which a county could provide for the election of a county superintendent of schools, but advantage was taken of this in only a few of the counties.

In 1909, however, the system of county supervision was made compulsory in all counties, the county superintendent having general supervision over all schools in the county except in districts which employ a superintendent who gives at least one-half of his time to supervision. Since that time conditions have materially improved, especially in rural schools. In 1911, the school apportionment law was changed so that the school attendance, length of terms, number and salary of teachers are the important factors in determining the quota of a district. The compulsory attendance law enacted in 1905 has been strengthened but its administration is still left largely in the hands of the local boards of education. Statutory provision has been made for consolidation of rural school districts but not

<sup>18</sup> The present legislature has made provision for granting pensions out of the funds of the county to a mother who has one or more children dependent for support wholly or in part upon her labor.

much progress in this direction has been accomplished. Inspection and classification of schools by officials from the state university and the state department of education have done much to improve conditions.

The legislature has just enacted a number of important laws affecting public educational administration. Three of these acts provide for state aid, one for rural high schools in consolidated districts, one for high schools in poor districts which have levied the maximum tax rate provided by law, and the other for first class high schools giving teacher training courses. In all cases the approval of the state superintendent of public schools is required. Other acts provide for paying the traveling expenses of the county superintendent of schools and for annual meetings of the presidents and clerks of all school boards of the county called by the county superintendent for the consideration of questions pertaining to school administration, each official being entitled to receive a small compensation and mileage.

### *Highway Administration*

The decentralized system of highway administration has not favored the improvement of roads. The county courts have, in general, constructed good bridges over important streams but aside from a few counties in which there has been an intelligent public opinion or in which considerable revenue from saloon licenses has been available, little has been accomplished in the way of permanent improvement of roads. Toll roads are still maintained in some counties. The situation has been much better in special road districts and the number of such districts has been increased in recent years. The legislature a few years ago commenced the policy of granting state aid but for the most part this has not been based upon any stimulative principle and has not secured any adequate returns. The state board of agriculture has appointed a state highway engineer who has given valuable advice to local officers and has promoted local activity in road improvement. He has not had, however, any supervision or control over local officials of highway administration.

The present legislature has passed a number of laws affecting highway administration. Perhaps the most significant is one creating a state highway department under the administration of a state

highway commissioner appointed by the governor. This official will take the place of the state highway engineer in giving information and assistance to local highway authorities. The act provides, moreover, that he is to perform all duties with respect to the construction and maintenance of roads that may be provided by any system of state aid which may be adopted.

An opening for a system of central supervision and control over highway administration has been furnished in another act of the legislature, providing a system of roads connecting all county seats in the state and creating for this purpose a county highway board consisting of one member appointed by the county court, one by the state highway engineer, and one by the governor. If the county has a county highway engineer, he is *ex officio* a member of said board. The act provides for state aid and the state highway engineer is to assist in selecting the route and to audit all accounts to be paid out of the state treasury.

### *Public Health*

Outside of cities, there has been little effective sanitary administration in Missouri. The county board of health is composed of the judges of the county court and a physician appointed by them. It has quarantine powers similar to those possessed by the state board of health, and is required to enforce such regulations as the state board may prescribe. It would be difficult, however, to compel the county authorities to take positive action in this field and little if any effort has been made in this direction. A few years ago the legislature gave the state board control over vital statistics with authority to divide the state into registration districts and to appoint local registrars.

### *Miscellaneous*

The control over liquor licenses has been left to the county court subject to the local option and other laws regulating the liquor traffic. On account of the political influence of saloons in large cities, this power was taken away from the local authorities in the city of St. Louis, which possessed the function of a county in this matter, and was delegated to an excise commissioner appointed by the governor. The present legislature has passed an act giving the mayor the power of appointing a bipartisan excise board

reserving, however, to the governor the power of removal. While this act was passed in obedience to the demand for "home rule," the same legislature provided for the appointment by the governor of a bipartisan excise board for the county of St. Louis. This county adjoins the city of St. Louis and open violations of the Sunday closing law have been the rule.

Under the local option law the majority of Missouri counties have prohibited licensed saloons. The present legislature has passed a county unit bill which will extend the dry territory by including many cities with over 2,000 population which have previously voted independent of the county on this matter.

The abolition of licensed saloons increases violations of the excise laws. Those who are opposed to prohibition succeed frequently in electing local officials of police and judicial administration who refuse to enforce the excise laws. In a few counties, this condition has become notorious but the legislature has declined to give the governor power to remove such officials though he may direct the attorney-general to prosecute cases in such counties. In the three largest cities of the state, the governor has had the power of appointing and removing police commissions which have full control over the city police systems. In this way the enforcement of state laws in excise and other matters has been secured. On account of the demand for "home rule" the present legislature has substituted the mayor for the governor as the appointing authority in the case of the St. Louis police commission, but the governor retains the power of removal.

The counties have full charge of all matters relating to elections. In St. Louis and Kansas City, however, administration of such matters is vested in a board of election commissioners appointed by the governor.